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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,990	04/02/2004	Richard Rund	551.0006	7262
25534	7590	04/06/2005	EXAMINER	
CAHN & SAMUELS LLP 2000 P STREET NW SUITE 200 WASHINGTON, DC 20036				VERBITSKY, GAIL KAPLAN
		ART UNIT		PAPER NUMBER
		2859		

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/815,990	RUND, RICHARD
Examiner	Art Unit	
Gail Verbitsky	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input checked="" type="checkbox"/> Other: <u>Attachment to /</u>

## DETAILED ACTION

### ***Specification***

1. The title of the invention is not descriptive: the title is directed to a dishwasher safe thermometer, while the claims are directed to a digital thermometer.

### ***Claim Objections***

2. Claim 6 is objected to because of the following informalities: "wher[ie]n" in line 1 should be replaced with –wherein–. Appropriate correction is required.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "insulating member", "the glue", "the screw", "the gasket" must be shown or the feature(s) canceled from the claim(s) 1, 3-4. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. 20030169803A1) n view of Mann et al. (U.S. 6809653) [hereinafter Mann], EP 03093029A1 [hereinafter EP] and Paddock et al. (U.S. 4404813) [hereinafter Paddock].

Lee discloses in Figs. 5-6 an electronic digital thermometer comprising a housing having a first portion A and a second portion 32. Although it is not shown in Figs., the fact that the first portion contains a circuit (microprocessor) 42 would imply that the first portion comprises a cavity. The thermometer also comprises a probe portion containing a temperature-sensing element 37. (The numeral A has been added by the Examiner, see attachment #1 to the Office Action).

Lee does not explicitly teach a waterproof seal, that the conversion logic is encapsulated in a low thermal conductivity material, and an insulating member, as stated in claim 1.

Mann discloses a device comprising a housing. The housing includes upper and lower cases (first and second portions) connected to each other with a waterproof seal to permit cleaning with water, cleaner, or the like. The waterproof seal is a sonic weld, sealing rings (gasket), silicone sealant (thermally resistant glue).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device, disclosed by Lee, so as to have a housing sealed against leakage, as taught by Mann, so as to protect the electronics from moisture and contaminants of a harsh environment.

EP teaches to insulate a circuit by embedding it within an epoxy resin.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device, disclosed by Lee, so as to have a encapsulate the circuit/ microprocessor in an epoxy potting compound, as taught by EP, so as to protect the circuit from effects of environment.

Paddock teaches in Fig. 3 to apply an insulating foam (insulating member) 58 in a cavity of a housing to define an additional sealing means.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device, disclosed by Lee, so as to have a foam insulating pad, as taught by EP, so as to provide an additional sealing member to a housing, as already suggested by Paddock.

With respect to claim 7: the use of the particular material, i.e., polystyrene, as stated in claim 7, for the insulating member, absent any criticality, is only considered to be the "optimum" material that a person having ordinary skill in the art at the time the invention

was made using routine experimentation would have found obvious to provide for the insulating member disclosed by Lee since it has been held to be a matter of obvious design choice and within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use of the invention. In re Leshin, 125 USPQ 416.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the insulating member in the device disclosed by Lee 1 of polystyrene because polystyrene is known to be both thermal and electrical insulator and also providing a resilient protection to a housing from accidental impact. The method steps will be met during the normal manufacturing process of the device stated above.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee, Mann, EP and Paddock as applied to claims 1-3, 5-8 above, and further in view of Jones, Jr. (U.S. 3138776) [hereinafter Jones].

Lee, Mann, EP and Paddock disclose the device/ method as stated above.

They do not explicitly teach a screw as stated in claim 4.

Jones discloses in Fig. 1 a device comprising a housing. The housing includes a first portion containing a circuit and a second portion (cover) 21 connected to each other with a screw connection, as shown in Fig. 1.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device disclosed by Lee, Mann, EP and Lee, Mann, EP and so as to have also a screw connection between the housing portions

because this type of connection / attachment considered to be nothing more than the choice of engineering skill, the choice or design, because: 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as the portions are attached as already suggested by Jones, 2) threaded / screw attachment claimed by applicant and the attachment used by Lee, Mann, EP, Paddock are very well known alternate types of attaching means which will perform the same function, if one is replaced with the other, of attaching the two portions together, if one is replaced with the other, and 3) the use screw/ threaded attachment by applicant is considered to be nothing more than the use of one of the numerous and well known alternate types of attaching means that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to sealingly attach the two portions of the housing together.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

*Gail Verbitsky*  
*Primary Patent Examiner, TC 2800*



March 15, 2005

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Patent Application Publication Sep. 11, 2003 Sheet 5 of 10 US 2003/0169803 A1

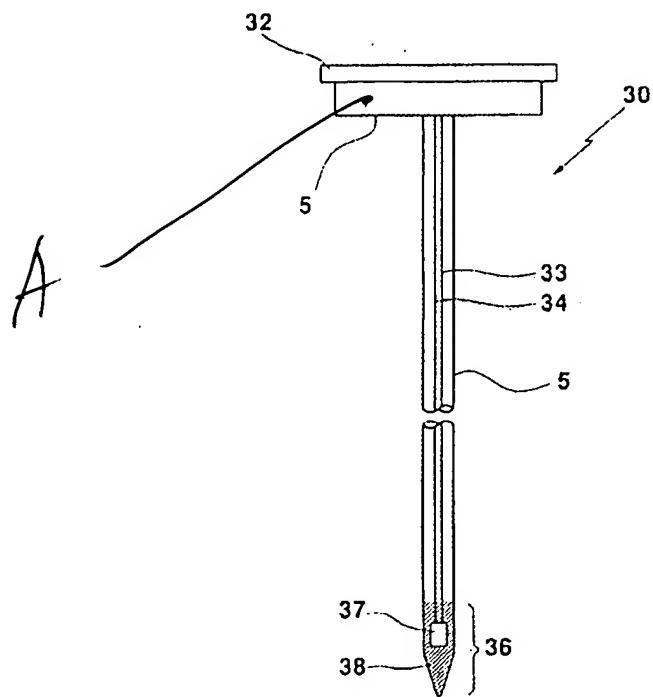


Fig. 5

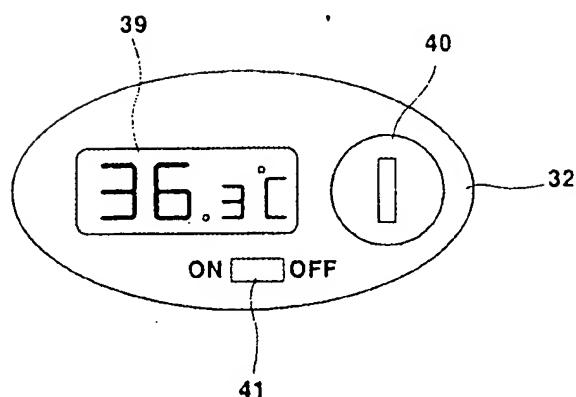


Fig. 6

attachment #1 /03/15/05